

**VENTURA COUNTY PLANINNG COMMISSION
COASTAL STAFF REPORT AND RECOMMENDATIONS
MEETING OF AUGUST 20, 2009**

SUBJECT:

Variance No. LU09-0041

PROPERTY OWNER

Breakers Way Trust
13547 Ventura Blvd. #90
Sherman Oaks, California 91423

APPLICANT:

Larry Graves
811 Gardner Avenue
Ventura, California 93004

REQUEST:

The applicant is requesting approval of a variance from the Ventura County Coastal Zoning Ordinance (hereinafter referenced as "CZO") requirement for a 10-foot front setback for this property to a 5-foot front setback.

This variance request is based upon the fact that the subject property line occurs at the center line of Breakers Way Road and a 15-foot access easement which exists between the center line of Breakers Way Road and the developable portion of the subject parcel. Pursuant to CZO, the required 10-foot front setback is measured from the edge of an easement when the easement provides access. Therefore, the front of the building may not be situated closer than 25-feet from the front property line (Exhibit "2" Assessor's Parcel Map).

LOCATION AND PARCEL NUMBER:

The project site is located at 6768 Breakers Way within the unincorporated area of Ventura County, in the community of Mussel Shoals. The project site is locally accessible via Breakers Way (a private road) and regionally accessible via U.S. 101/State Route 1 (Pacific Coast Highway). The subject property is 3,259 square feet in size (Exhibits "3" Project Location Map and "4" Site Plan). The Assessor's Parcel Number is 060-0-082-435.

BACKGROUND/HISTORY:

The subject property gained its current configuration through a Tract Map that was recorded in 1924 (Mussel Shoal Tract No. 1, Miscellaneous Records Book 12, Page 29; May 1924). The subject property is currently developed with a single family dwelling, approximately 1, 535 square feet. No garage exists on site.

Three Zoning Clearances have been issued for the property. ZC43414 was issued for relocation of a storage shed on site. ZC71736 was issued for repair of the seawall, in accordance with LU1574A. And ZC93296 was issued for an above-ground spa.

On June 1, 2007, a Notice of Violation was issued to the property owner for the conversion of a single-family dwelling into a duplex and construction of a seawall without a proper County permit. These violations were confirmed as abated on June 28, 2007 when the structure was returned to a single-family dwelling and the splash lip on the seawall demolished.

On October 11, 2008, the Planning Division approved Planned Development Permit No. LU08-0079 to demolish the existing one-story dwelling and construct a new two-story dwelling, approximately 2,730 square feet in size. The proposed dwelling was approved with an average setback of fifteen feet from the rear property line at the ground level. The rear building wall would be staggered against the rear property line such that on the north side of the property the distance between the rear building wall and the rear property line would be sixteen feet, and on the south side of the property the rear building wall would be fourteen feet from the rear property line (Exhibit "5"). On the ground level, a deck was proposed to extend at grade to the rear property line. The second level of the dwelling proposed a balcony that extended to within an average of 8.5 feet of the rear property line, staggered consistently with the rear building wall. Three-foot side setbacks were maintained on site. Due to the fifteen-foot access easement along the front property line, a ten-foot front setback is proposed beyond the edge of the easement, such that the front building wall would be ten feet from the edge of the easement. Access from Breakers Way was proposed to be provided via a concrete driveway. Two parking spaces were to be provided at the ground level of the single family dwelling, in two single-car garages, each approximately 180 square feet in size, and with a separate driveway leading to each garage. The Casitas Municipal Water District would provide domestic water and sewage disposal would be provided by Ventura Regional Sanitation District. No grading was proposed to prepare the project site for development and no trees or native vegetation were proposed to be removed.

Subsequent to this approval, the applicant now requests a variance for the front setback to allow for an increase in square footage to the single-family dwelling that was approved by the Planning Division in October 2008.

GENERAL PLAN AND ZONING:

General Plan Designation:	Existing Community
Coastal Area Plan:	Residential High 6.1-36 du/acre
Coastal Zoning:	RB-3,000 sq. ft. (Residential Beach, 3,000 square feet minimum lot size)

EVIDENCE AND PROPOSED PERMIT FINDINGS FOR THE VARIANCE

The applicant is requesting this variance under Section 8181-4.2 of the *Ventura County Coastal Zoning Ordinance*. As specified in Section 8181-4.2, all of the variance findings must be made in order for your Commission to approve the variance and also to determine if the proposed project is consistent with the *Ventura County Coastal Zoning Ordinance*, *Ventura County General Plan* (2005), and *Ventura County Coastal Area Plan* (2001). The proposed variance findings, along with the project information and evidence to either support or reject them, are presented below. The applicant's grounds for the Variance are in Exhibit "7".

Finding 1

There are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography and location, which do not apply generally to comparable properties in the same vicinity and zone.

Applicant's Statement: There are 26 lots on Breakers Way that currently have houses on them. There are an additional three lots that are vacant with no houses. There are 29 lots on Breakers Way of which seven are on uniform size. Of those 29 lots, 82% (or 24 lots) are 3,350 sq. ft. or larger. This is 1.7 times larger than the applicant's lot. Obviously the larger the lot, the more area (SF) the house could be. The 65% lot coverage requirement is important, but definitely restricts the properties in the neighborhood with smaller lot sizes. This is the case with the applicant's lot.

Note the lot reference #1-11 (Exhibit "7") decrease in size east to west. Therefore, the farther west you are, the significantly smaller the lot. The setback imposed by the zoning ordinance and the decreasing lot area creates a hardship on the property owners on the west end of the neighborhood. The applicant's property is 5th from the west and definitely is restricted by the diminishing lot size and constant setback line. Referring to the AP map, you can easily see lot reference #5 as having unique shape and smaller size. The location, in the neighborhood, of this lot makes it special and harder to provide a house of similar size to the larger homes on the surrounding larger lots.

Therefore, the existing lot size circumstance creates a hardship for the applicant to have a comparable sized house to the neighbors.

Staff Evidence and Proposed Findings: As the applicant contends, the project site is relatively smaller, in size, compared to other lots in the neighborhood. The residential lots within this community range from approximately 2,800 sq. ft. to 9,148 sq. ft. in size. At 3,259 sq. ft. in size, the subject property is one of the smaller sized properties within the Mussel Shoals neighborhood that have the same zoning designation.

However, the size and configuration of the lot do not and will not preclude the development of a single-family home built to the standards of the CZO. As mentioned

above, the Planning Division approved Planned Development Permit No. LU08-0079 on October 11, 2008, for the demolition of the existing one-story dwelling on the subject property and the construction of a new two-story dwelling, approximately 2,730 square feet in size without the requested variance from the front set back requirement.

According to recent tax records, the residences in this neighborhood range from approximately 352 square feet to 3,155 square feet, as further identified in Table 1 below. The 2,730 square foot residence that was approved by the Planning Division in October 2008 is comparable to the sizes of residences in the neighborhood. Additionally, there are other lots on this block that are smaller in size than the subject property and contain residential development.

Table 1 – Sizes of Residential Units in the Mussel Shoals Community*			
APN	Address	Lot Size**	Residence Size**
060-0-082-465	6776 Breakers Way	2896	1230
060-0-082-455	6774 Breakers Way	2990	2070
060-0-082-025		3073	1597
060-0-082-435	6768 Breakers Way	3259	Existing: 1442 Approved: 2730
060-0-082-055	6766 Breakers Way	3352	1818
060-0-082-060	6762 Breakers Way	3446	2356
060-0-082-405	6758 Breakers Way	3539	1160
060-0-082-395	6752 Breakers Way	3632	1453
060-0-082-385	6746 Breakers Way	3727	3155
060-0-082-090	6748 Breakers Way	3820	2737
060-0-082-215	6734 Breakers Way	3865	1877
060-0-082-350	6728 Breakers Way	3865	2502
060-0-082-115	6726 Breakers Way	3865	2616
060-0-082-335	6724 Breakers Way	3865	2616
060-0-082-320	6714 Breakers Way	3865	2616
060-0-082-315	6708 Breakers Way	3865	1782
060-0-082-600	6702 Breakers Way	3865	984
060-0-082-610	Breakers Way	4127	440
060-0-082-295	6694 Breakers Way	4559	1847
060-0-081-085	6687-6689 Breakers Way	4550	2431
060-0-081-085	6691-6693 Breakers Way	4249	2640
060-0-081-095	6707 Breakers Way	4586	600
060-0-081-095	6709 Breakers Way	4169	352
060-0-082-500	6711 Breakers Way	3242	2578
060-0-082-510	6719 Breakers Way	3495	2250
060-0-082-490	6727 Breakers Way	3463	2913
060-0-082-480	6733 Breakers Way	3405	2811
060-0-082-470	6741 Breakers Way	3400	2913

Notes:

*Data gathered from Assessor's Office Records, February 2009

** square feet

Therefore, this finding cannot be met that there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography and location, which do not apply generally to comparable properties in the same vicinity and zone.

Finding 2

Granting the requested variance will not confer a special privilege inconsistent with the limitations upon other properties in the same vicinity and zone within the coastal zone.

Applicant's Statement: Refer to the spreadsheet, supporting maps, and aerial photos attached. (Exhibit "7") They will provide analytical and visual data which support the applicants request for the variance.

The applicant would like to experience living conditions similar to the majority of the homes in the area. After approval of the variance, as seen by the table, the applicants proposed total living area and footprint do not exceed any other homes in the neighborhood. There are 6 of 26 properties or 23% that have the same lot coverage or higher. There are 12 homes or 46% that have more living area than the proposed home by the applicant. These facts clearly indicate that variance approval will not grant a special privilege, to this applicant inconsistent with the conditions of other properties in the neighborhood.

Note there are 7 of 26 houses (26%) in the neighborhood where the existing house is located within the 25-foot setback. No variance approvals were found on file. That is not grounds for this approval.

Note that the last 3 houses on the west end of the neighborhood all are located in the 25-foot setback. This is due to the diminishing lot depth as seen on the maps. The applicant's lot is next in line and has the shallower depth. The next 6 lots to the east either are below the setback depth or within one foot on the exceeding setback. As you can clearly see the 11 lots from west to east, which have the angled rear property line, have homes either closer than the 25-foot setback or one-foot over setback. Therefore, the applicant clearly will not be getting a special privilege over the 5 homes on either side of the property.

Staff Evidence and Proposed Findings: The applicant contends that, due to the smaller size of his lot in comparison with his neighbors, he will not be able to build a house of comparable size to his neighbors. Many single family dwellings on lots that are similar in size, shape, topography, and location in the community of Mussel Shoals have been granted relief from setback standards for parcels with specific development limitations. Table 2 (below) includes all of the properties within the Mussel Shoals Community that have the same zoning designation as the subject property and on which a variance was granted:

Table 2 – Variances Granted in the Mussel Shoals Community*

Case No.	Date of Issuance	Location	Project Description**
V-2087	8/3/64	6674 Old Pacific Coast Highway APN 060-0-090-025 (2,800 sq. ft. lot)	Lot area reduction of 200 s.f. from the required 3,000 s.f. for a duplex.
V-2551	5/4/66	6652 Old Pacific Coast Highway APN 060-0-090-065 (2,800 sq. ft. lot)	Lot area reduction of 200 s.f. from the required 3,000 s.f. for a duplex. Reduction to the required nine-foot width for a parking space.
V-2735	3/1/67	6670 Old Pacific Coast Highway APN 060-0-090-030 (2,800 sq. ft. lot)	Lot area reduction of 200 s.f. from the required 3,000 s.f. for a duplex. Reduction to the required 18-foot width for two parking spaces.
V-4412	3/19/87	6774 Breakers Way APN 060-0-082-450 (2,800 sq. ft. lot)	Front yard setback reduction from 10' to 4' for a 753 s.f. addition to an existing dwelling; conversion of an attached carport to an attached garage; and reduction of the garage to 15.5 feet width
V-4172/PD-1746	10/15/98	6646 Old Pacific Coast Highway APN 060-0-090-075 (2,800 sq. ft. lot)	Front yard setback reduction from 10' to 0' for a 234 s.f. 2 nd story addition atop an attached garage to a duplex.
LU06-0105	10/09/08	6758 Breakers Way APN 600-0-082-405 (3,000 sq. ft. lot)	Allow a 133 sq. ft. addition to single-family dwelling without providing the two required parking spaces.

Notes:

*All of the properties within the Mussel Shoals Community for which a variance was granted (and which are included in this table), had a "RB" (Residential Beach) zoning designation at the time at which the variance was granted.

**s.f. = square feet

Although two variances (V-4412 and V-4172) have already been granted for a reduction in the front yard setback, these were granted on lots that are 2,800-square-feet in size, more than 400-square-feet less than the subject property, which is 3,259 square feet. Additionally, Variance No. V-4172 involved the reduction of a front yard setback to accommodate a 234 square-foot addition to a duplex on a lot smaller in size than the subject lot. The subject lot only contains *one* residential unit. As such, these lots are not considered similar residential properties to the subject lot, so the argument cannot be made that similar variances were granted for similar residential properties.

Therefore, approval of the requested variance would constitute a special privilege inconsistent with other similar residential properties within the Community of Mussel Shoals.

Finding 3

Strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations.

Applicant's Statement: *The applicant would like to provide a home for the family that is consistent with the neighboring homes. Complying with the strict application of the zoning regulations will not allow this to happen. This constitutes unnecessary hardship.*

Staff Evidence and Proposed Findings: The applicant makes the statement that complying with the strict application of the zoning regulations will not allow him to provide a home for his family that is consistent with the neighboring home, and thus this constitutes unnecessary hardship. The Ventura County CZO Section provides standards for development that are consistently applied to development permits throughout the County. These standards require all properties to provide setbacks in order to maintain a standard for orderly development. As mentioned previously, a Coastal Planned Development (LU08-0079) has already approved for this site. The approved 2,730 sq ft dwelling did not require any variances and is comparable in size to other homes in the area.

Building coverage standards apply to all development permits as well, to control building intensity and population density. Additionally, these standards are applied to projects to guide development to a scale that is compatible with the surrounding neighborhood. The size of a dwelling that is allowed is based upon the size of the lot in order to avoid development that is oversized for the lot on which it is situated, which could result in adverse visual and quality of life impacts to neighboring properties. The dwelling approved by LU08-0079 does not exceed the allowed building coverage standard.

The CZO Section 8175-2 discusses the specific development standards required in the RB Zone. Consistent throughout this zoning district is the requirement for a 10-foot front setback, 3-foot side setbacks, and a 14-foot rear setback. The height restriction for the main structure is 25-feet.

The subject property, while larger than some lots in the neighborhood, is smaller than the majority of other lots in the neighborhood, especially due to the location of this lot toward the end of the street. However, since the applicant proposes to demolish the existing single-family dwelling and construct a new single-family dwelling on the site, the new dwelling would not be constrained by the configuration of the existing residence on the lot. Other variances that were approved in the neighborhood were granted due to hardship since the property owner would be required to demolish a

portion of their existing structure in order to meet the requirements of the CZO. As the current proposal for 6768 Breakers Way already includes the demolition of existing structures on site, staff finds that the property owner in this case would not be facing undue hardship as they would be able to create a new structure that conforms to requirements of the CZO and as demonstrated by the previous approval of LU08-0079.

Therefore, staff finds that the strict application of the front yard setback and parking requirements would not result in unnecessary hardships with respect to the use of the property.

Finding 4

The granting of such variance will not be detrimental to the public health, safety or general welfare, nor to the use, enjoyment or valuation of neighboring properties.

Applicant's Statement: Most all the homes in the neighborhood have a driveway (hard surface) as their front yard. The applicants proposed home is no different. So the granting of this variance request will not present any damage to neighboring properties and will be consistent with the other homes. The home being 5-feet closer than the zoning regulation will not be a problem to public welfare. There is very little traffic at this far end of the neighborhood. Breakers Way is a private roadway and therefore only traveled by owners and guests. There will still be plenty of room for adequate line of sight. The house location will not impede anybody's vision to see traffic on the street. There is a large single car parking area directly across Breakers Way from the proposed house. This creates a better, safer situation than have houses directly across the road. Due to the permanent parking easement and limited land, houses will never be built across this area. There will still be adequate visibility for vehicle traffic along Breakers Way with the proposed house 5-feet closer than the code setback. There is not sidewalk along Breakers Way so pedestrian traffic will not be affected either.

The length of the hard surface apron in front of the garage will be 11-feet with the setback variance approved. Note there are four existing aprons at houses on both sides of 67868 Breakers Way that are 12-feet long or less. There are 13 or 52% total houses along Breakers Way that are below the standard 20-foot apron.

There will be no damage to the value of neighboring properties with the proposed house being closer because 6 of the 9 houses on either side of the property are just as close to the street. The location will not block any neighbor's view of anything.

Staff Evidence and Proposed Findings: Existing development within the area consists mainly of two-story residences that are built toward the rear (ocean side) of the property. The proposal in this case is a two-story residence that would be compatible with the scale of the neighborhood.

The existing residence does not have a garage. Two parking spaces are required, and both are proposed with the new construction. Thus, this project would actually improve the parking situation on Breakers Way by providing two additional off-street parking spaces than currently exist.

Therefore, the project would not impair the general welfare, nor to the use, enjoyment or valuation of neighboring properties.

Finding 5. All development authorized by the variance is consistent with all applicable standards of the Local Coastal Program.

Applicant's Statement: No statement.

Staff Evidence and Proposed Findings: Although the proposal with the reduced front setback does not comply with the development standards of the CZO, the proposal will not be contrary to or in conflict with the general purposes and intent of the goals, policies and programs of the Coastal Area Plan.

Finding 6. That the granting of a variance in conjunction with a hazardous waste facility will be consistent with the portions of the County's Hazardous Waste Management Plan (CHWMP) which identify specific sites or siting criteria for hazardous waste facilities.

Staff Evidence: This finding is not applicable to this project.

In summary, the Planning Division does not believe the applicant has adequately demonstrated his case in requesting the variance, especially as a previous dwelling is already approved for the site which does not rely on a variance to provide a home in keeping with the range of dwelling sizes in the area.

CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE:

The proposed project, which consists of the demolition of an existing residential development and the construction of a new single family dwelling and attached garage, was determined to be exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to the *Guidelines for the Implementation of the California Environmental Quality Act* (2006, Title 14, California Code of Regulations, §15303, Class 3, *New Construction or Conversion of Small Structures*). A Notice of Exemption (NOE) may be filed with the Clerk of the Board following action on this permit if your Commission finds that the applicant has provided sufficient justification for a variance from the front setback requirement. Filing of the NOE establishes a 35-day statute of limitations on legal challenges to the decision that this project is exempt from CEQA.

D. PUBLIC COMMENTS:

All property owners within 300' of the proposed project parcel and all residents within 100' of the subject parcel were notified by US Mail of the proposed project. In addition, the notice was published in the local newspaper. As of the date of this staff report, no comments have been received.

E. JURISDICTIONAL COMMENTS:

The project was distributed to the Breakers Way Property Owners Association. A letter in support of the variance was received (Exhibit "10").

RECOMMENDATION ACTIONS:


1. FIND, based on the evidence presented in the staff report and at the hearing, that the variance standards in Section 8181-4.2 of the *Ventura County Coastal Zoning Ordinance* are not met; and
2. ADOPT the staff recommended findings in Section B and the Planning Commission Resolution (Exhibit "8") based on the evidence presented and DENY Variance Case No. LU09-0041.
3. DESIGNATE the Clerk of the Planning Commission at 800 South Victoria Avenue, Ventura, CA as the custodian and location of the record of proceeding upon which the decision is made.

Your Commission's action on this item is final unless appealed to the Board of Supervisors within 10 calendar days.

Prepared by:


Michelle Glueckert D'Anna, Case Planner
654-2685

Reviewed by:


Kimberly L. Rodriguez, Director
PLANNING DIVISION

Attachments:

- Exhibit "2" – Assessor's Parcel Map
- Exhibit "3" – Location Map
- Exhibit "4" – Site/Floor Plan for LU09-0041
- Exhibit "5" – Approved Site/Floor Plan for LU08-0079
- Exhibit "6" – Aerial Map
- Exhibit "7" – Applicant's Justification for Variance Request
- Exhibit "8" – Planning Commission Resolution
- Exhibit "9" – Applicant Submittal
- Exhibit "10" – Letter from Breakers Way POA, dated July 13, 2009